

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
August 25, 2003

D040503 People v. Nouri

The appeal is dismissed. McDonald, J.; We Concur: Haller, Acting P.J., McIntyre, J.

D042629 In re the Marriage of Kelley

The appellant having failed to timely pay the filing fee, the appeal is dismissed.

**D042534 David J. v. Superior Court of San Diego County/San Diego County Health and
Human Services Agency**

By failing to file a timely petition for writ relief, the notice of intent is deemed to be abandoned. The case is dismissed.

D039163 Hogar v. Community Development Commission of the City of Escondido et al.

The petition for rehearing is denied.

D042706 People v. Brown

The petition for transfer is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
August 26, 2003

D040175 People v. Thornton

The judgment in case No. SCN130098 is modified to stay the sentence on count 3 (receiving stolen property), to strike all but one of the section 12022.1(b) enhancements, and to show that the remaining such enhancement is imposed as a status enhancement rather than as one imposed as to a specific count. The judgment in case No. SCN133455 is modified to strike the conviction on count 4 (possession of a controlled substance), to strike all but one of the section 12022.1(b) enhancements, and to show that the remaining such enhancement is imposed as a status enhancement rather than one imposed as to a specific count. As so modified, the judgments are affirmed. The trial court shall prepare amended abstracts of judgment in accordance with this opinion and forward copies of the amended abstracts to the Department of Corrections. McIntyre, J.; We Concur: Benke, Acting P.J., McConnell, J.

D040685 Wright v. Fish and Game Commission et al.

The judgment is affirmed. Respondents are entitled to costs on appeal. Aaron, J.; We Concur: Huffman, Acting P.J., Haller, J.

D041892 Chalmers v. Castro

The appeal is dismissed pursuant to California Rules of Court, rule 8.

D042441 In re Best on Habeas Corpus

The petition is denied.

D039962 Gonzalez et al. v. Paradise Valley Hospital et al.

The judgments are reversed. CERTIFIED FOR PUBLICATION. McConnell, J.; We Concur: McIntyre, Acting P.J., Aaron, J.

D039822 Hombs v. Attwood

The order is affirmed. McConnell, J.; We Concur: McIntyre, Acting P.J., Aaron, J.

D040898 Chambless v. Draeger Medical, Inc.

Judgment affirmed. Chambless to bear Draeger's costs on appeal. Haller, Acting P.J.; We Concur: McDonald, J., McIntyre, J.

D040667 Flower v. Pep Boys

The judgment is affirmed as to the fraudulent misrepresentation claim and reversed as to the contract claim. Flower is entitled to costs on appeal. Aaron, J.; We Concur: McIntyre, Acting P.J., O'Rourke, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
August 26, 2003 (continued)

D041903 In re Joshua B., a Juvenile

We reverse the February 5, 2003 six-month review hearing order suspending visitation and the March 10 SARMS hearing order delegating to Joshua, his attorney, and the social worker the discretion to decide whether visitation would occur. We remand this matter to the juvenile court so that it may immediately make proper visitation orders. We also reverse the August 7, 2002 jurisdictional and dispositional orders, and subsequent orders, for inadequate notice under ICWA, and remand to the juvenile court with directions that the Agency give proper ICWA notice and furnish proof of that notice to the juvenile court. If a tribe responds that Joshua is an Indian child, the juvenile court shall conduct a new jurisdictional hearing complying with ICWA. If there is no such response, the juvenile court shall reinstate its jurisdictional and dispositional order (*In re Samuel P.* (220) 99 Cal.App.4th 1259, 1268-1269; *In re Asia L.* (2003) 107 Cal.App.4th 498, 507-509.) McIntyre, J.; We Concur: Haller, Acting P.J., McConnell, J.

D041520 People v. Johnson

The judgment is affirmed. Haller, Acting P.J.; We Concur: McConnell, J., Aaron, J.

D041645 In re Rico L., a Juvenile

The orders are affirmed. McConnell, J.; We Concur: Haller, Acting P.J., Aaron, J.

D042473 Schulman v. Superior Court of San Diego County/Visium Solutions Corporation

The petition is denied.

D040828 In re Jermaine C., a Juvenile

The juvenile court's orders are affirmed. Huffman, Acting P.J.; We Concur: McDonald, J., O'Rourke, J.

D042288 April F. et al. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The petitions are denied. Haller, Acting P.J.; We Concur: McDonald, J., McConnell, J.

D042774 Douglas v. Superior Court of San Diego County/People et al.

The County of San Diego, Office of the Medical Examiner, is ordered not to transfer the body until further order of this court. The County, the People and the victim's parents may file an informal response to the petition by 4 p.m. on Wednesday, August 27, 2003 and specifically address the issue of whether the court erred in failing to conduct an in camera hearing. The District Attorney is directed to advise the victim's parents of this order.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
August 27, 2003

D041294 People v. Gillette

The judgment is affirmed. Benke, Acting P.J.; We Concur: McDonald, J., O'Rourke, J.

D040536 People v. Heredia

D040537 People v. Heredia

The judgment is affirmed. Huffman, J.; We Concur: Benke, Acting P.J., O'Rourke, J.

D041720 In re James S., a Juvenile

The request for publication is denied.

D042490 Lockett v. Superior Court of San Diego County/People

The petition is denied.

D042487 In re Sheppard on Habeas Corpus

The petition is denied.

D042744 In re Mayes on Habeas Corpus

The petition is denied as duplicative.

D042484 In re Bowie on Habeas Corpus

The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
August 28, 2003

D037390 St. Paul Mercury Insurance Company v. Frontier Pacific Insurance Company et al.
Order certifying opinion for partial publication and denying rehearing filed.

D041076 Tyden v. Meier et al.
The judgment is affirmed. Respondents are entitled to costs on appeal. Aaron, J.;
We Concur: Haller, Acting P.J., McDonald, J.

D041960 In re Mitchell on Habeas Corpus
The request for transcripts and appointment of counsel are denied. The petition is denied.

D041315 People v. O'Campo
Judgment affirmed. McConnell, J.; We Concur: Huffman, Acting P.J., Haller, J.

D041882 The Redevelopment Agency of The City of San Diego v. San Diego Gas & Electric Company
The judgment is reversed and the matter is remanded to the superior court which is directed to vacate its order sustaining SDG&E's demurrer to the complaint and dismissing the action and to enter a new order overruling the demurrer. The Agency is to recover its costs of appeal. CERTIFIED FOR PUBLICATION. McIntyre, J.; We Concur: McDonald, Acting P.J., McConnell, J.

D042774 Douglas v. Superior Court of San Diego County/People et al.
Let a writ of mandate issue directing the superior court to vacate its order of August 22, 2003, and to conduct an exparte in camera hearing forthwith in this case making every effort to complete the hearing within 24 hours but in no event later than Tuesday, September 2. Our August 26, 2003, stay on the release of the remains is vacated and the parties are directed to address the issue of any further stay with superior court. This opinion is made final immediately as to this court. (Cal. Rules of Court, rule 24(b)(3).)

D039163 Hogar v. Community Development of Commission of the City of Escondido et al.
The request for publication of Discussion part II the opinion is denied.

D041204 Evans v. Superior Court of San Diego County/People
The request to file supplemental points and authorities in support of petition for rehearing is granted as part of the petition for rehearing. The request for judicial notice is denied. The request for rehearing is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
August 29, 2003

D042754 People v. Peavey

In that no appealable order or judgment has yet been entered, the notice of appeal is premature. The appeal is dismissed without prejudice to refiling a notice of appeal after an order or judgment has been entered.

D042535 In re Shears on Habeas Corpus

The petition is denied.

D042532 In re Guzman on Habeas Corpus

The petition is denied.

D042492 Enright v. Workers' Compensation Appeals Board/Solar Turbines Inc.

The petition is denied.

**D040605 Nestande et al. v. Laurence M. Watson, as County Counsel, etc., et al./
Songstad et al.**

The petition for rehearing is denied.